

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

IN RE:

IKO ROOFING SHINGLE PRODUCTS
LIABILITY LITIGATION

MDL No. 2104

THIS DOCUMENT RELATES TO
ALL ACTIONS

**DEFENDANTS' RESPONSE TO MOTION
FOR LIMITED RELIEF FROM DISCOVERY STAY**

Defendants¹ submit this brief response to plaintiffs' motion for limited relief from this Court's Orders dated December 10 and 17, 2009, staying all discovery proceedings in this action. Plaintiffs assert that two of their counsel received anonymous voicemail messages from a caller who stated that he had been ordered to destroy "IKO shingle documents and records" at a Michigan building supply company named Square Deal Building Supply ("Square Deal"). (Motion, ¶ 3). The caller is not identified by name, does not state whether he is employed by Square Deal, does not identify who ordered him to destroy the documents, does not state whether he was ordered to destroy documents other than documents relating to IKO shingles, or explain how he knows about this purported order to destroy documents.

Defendants state for the record that no IKO entity or anyone acting under the control of an IKO entity has ordered the destruction of any documents at Square Deal. Further, no IKO entity or principal of any IKO entity has any control over Square Deal, which sells the defendants' shingles and shingles of the defendants' competitors; consequently, it could not

¹ This brief is filed by defendants IKO Chicago Inc., IKO Pacific Inc. and IKO Manufacturing Inc.

order the destruction of such documents. To the contrary, defendants have taken extraordinary steps to preserve documents relevant to this litigation.

Like plaintiffs, defendants are interested in obtaining further information about these purported anonymous voicemail messages. Accordingly, defendants request this Court to order plaintiffs' counsel to preserve these voicemail messages. It is unclear what relevance, if any, destruction of documents at Square Deal may have to the present litigation, but the caller may become a witness in this litigation; consequently, the voicemail messages should be preserved.

Dated: December 23, 2009

Respectfully submitted,

**IKO MANUFACTURING INC.,
IKO CHICAGO INC., and
IKO PACIFIC INC.**

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CERTIFICATE OF SERVICE

I hereby certify that on **December 23, 2009**, I caused to be electronically filed **Defendants' Response to Motion for Limited Relief from Discovery Stay** with the Clerk of the Court using the CM/ECF system and served copies on all counsel of record via the CM/ECF system.

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